I has other uses besides encoding the proteins recited in the claims of Group II, such as for use as a hybridization probe or in gene therapy. Applicants submit that the reason offered by the Examiner is insufficient to support a conclusion of patentable distinctness between Groups I and II. The Examiner has provided no indication as to the feasibility of using the DNA of Group I as a hybridization probe; nor has the Examiner provided any indication as to the feasibility of using the recited DNA in gene therapy.

Likewise, with respect to the claims of Group II and Group III, the Office indicates that the protein from Group II can be used in methods other than to make the antibody recited in the claims of Group III, such as in therapeutic or diagnostic methods. The Examiner, however, has provided no indication as to the feasibility or nature of using the proteins in any type of therapeutic or diagnostic method, such as screening.

The Office goes on to state that the proteins recited in Groups II and III can be prepared by processes "which are materially different from recombinant DNA expression of Group I," such as by chemical synthesis, or by isolation and purification from natural sources. Applicants respectfully note that the Office has not indicated how synthesizing the recited proteins by chemical synthesis or by isolation from a natural source is materially different from producing it by recombinant DNA means. In either event, the protein will be the same. Applicants also note that it remains wholly unknown whether the proteins of Groups II and III can even be prepared by chemical synthesis or by isolation from a natural source.

Accordingly, because the Office has not carried the burden of providing technologically sound reasons or examples for concluding that the claims of Groups I, II, and III are patentably distinct, the restriction requirement with regard to these three groups is improper and should be withdrawn.

With regard to the claims of Groups II and V, the Office has taken the position that these inventions are unrelated. Citing MPEP § 806.04 and § 808.01, the Office notes that inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects. Applicants respectfully traverse this portion of the restriction requirement as being improper on its face. The tryptase proteins as recited in claims 40 and 59-61 can be used in either of

the methods recited in claims 33 and 53. Nothing in either of claims 33 or 53 prevent the use of any of the recombinant tryptases recited in the application as being used as the model enzyme. Thus, these two groups of claims are, in fact, capable of use together. Accordingly, Applicants respectfully traverse this portion of the restriction requirement and request that it now be withdrawn.

Likewise, the Office has also characterized the relationship between the claims of Groups I, III, IV, and V as being unrelated. Here, the Office notes that the DNA constructs as recited in Group I and the antibodies of Group III are neither used, nor made by the methods of inventions IV or V. This simply is not the case. The antibodies can be used in screening and the DNA constructs are used to generate the enzyme which is then used to generate the antibodies. The Office's observation that the method for generating antibodies (as recited in the claims of Group III) as comprising different steps, utilizing different products, and producing different results from the other claims, is wholly conclusory and therefore cannot serve as grounds upon which to base this aspect of the restriction requirement. In short, the Office's conclusion is simply a restatement of the conclusion of patentably distinctness. The statement, however, is not an objective reason or example in support of the ultimate conclusion.

Applicants traverse the restriction requirement between Groups IV and V for the same reason. The Office Action states simply that the claims of Groups IV and V are unrelated, without providing any factual, scientific or exemplary reasons why the Office considers these two groups of claims to be unrelated. In the case of Groups IV and V, the Office concludes, without any factual support, that the claims of these groups "comprise different steps, utilize different products, and produce different results." This, however, is nothing more than a restatement of what constitutes "unrelated" inventions.

CONCLUSION

For the reasons stated above, Applicants respectfully traverse the restriction requirement in its entirety. As required by the rules, however, Applicants provisionally elect, with traverse, Group I.

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